

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 4161

EHRENFREUND, ET AL.

Examiner: MANOHAR, MANU M.

APPLICATION NO: 10/530,737

Conf. No. 9382

FILED: APRIL 8, 2005

FOR: **HETEROCYCLOCARBOXYMIDE DERIVATIVES**

ACTION: ***Response To Restriction Requirement With Traverse***

DATE: JULY 24, 2008

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This election is in response to the Restriction Requirement dated June 25, 2008. The Examiner set a shortened statutory period for reply of 1 month, making the present response due by July 25, 2008. Claims 11-18 are currently pending.

The Examiner has taken the position that the application claims more than one independent and distinct invention and has required Applicants to elect an invention to be examined. Specifically, the Examiner has identified the following:

Group I: Claims 11-17 are drawn to compounds,

compositions; and

Group II: Claim 18 drawn to a method of use.

Pursuant to 35 U.S.C. § 121 and 372, the Examiner has required that Applicants elect among the inventions. Accordingly, Applicants elect, with traverse, Group I, claims 11-17. Reconsideration and withdraw of the restriction requirement is respectfully requested.

In order to comply with the outstanding election requirement, Applicants elect as a specific compound of Formula I the compound Z 202 from Table Z, wherein Z = 16. Claims 11, 12 and 14-17 are readable on the elected species.

Group II, Claim 18, is directed to a method of using the compounds of Group I. The Examiner has provided no clear explanation why there is lack of unity between a compound and a method of using said compound. Applicants view as appropriate the inclusion in a single application of claims reading on a compound and of claims reading on a method for using said compound.

What is represented is interrelated subject matter. This interrelationship rather than the classification in separate classes should be the overriding factor in determining the propriety of the restriction requirement. Additionally, the current guidelines on restriction practice recommend the examination of different sets of claims when such examination would not be unduly burdensome or prolonged. It is contended that this guideline would apply to the instant set of claims.

Applicant's acknowledge the Examiner's rejoinder notice, and acknowledge their right to rejoinder.

Applicants believe that this communication is fully responsive to the Office Communication and that no new fees are due. However, the Commissioner is authorized to debit any applicable fees from the deposit account of the undersigned, no 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

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